

### **Remarks**

The requirement made by the Examiner, namely, to elect a single disclosed Species from the seven (7) listed on page 2 of the Official Action, is noted. Accordingly, applicants, through their undersigned representative, provisionally elect the named "first Species" relating to the embodiment(s) such as that described with regard to Figs. 1, 9 and 10 of the drawings and request examination therefor of at least claims 1-11, 45 and 46, which are readable thereon. It should be noted, although Fig. 1 (including Figs. 1A-1H), Fig. 9 and Fig. 10 detail a construction and manufacture thereof as it relates to a single MOS transistor, the same is also applicable in terms of a semiconductor device employing plural active regions and in which the element isolation region effects a mutual isolation of plural active regions from each other.

In reviewing the currently pending claims, applicants also consider at least claim 11 as being generic to the named seven (7) species. Accordingly, upon allowance of this claim or any other claim that may be deemed a genus claim, examination of the remaining claims which are directed to one or more of the other named species is also respectfully requested. For example, claim 11 does specifically set forth a semiconductor device including plural active regions where elements are formed in a well region and an element isolation region for mutually isolating the plural active regions from each other. Further, claim 11 also calls for a recessed upper edge of an embedded insulating film (e.g., 103) in a trench (e.g., STI), near the source and drain diffusion regions, which is typical of the various disclosed example embodiments. Therefore, it can be said that this claim is generic to an active region related to either a non-memory as well as to a memory type of MOS transistor array construction.

Incidentally, since all claims directed to the semiconductor device set forth an arrangement in which a trench of an element isolating region is embedded with an insulating film for isolating an active region, in which, also, the upper edge of the embedded insulating film, in the trench, is recessed inwardly from the surface of the active region of the substrate, for example, near where the impurity concentration is typically greatest such as near the source and drain diffusion regions of MOS transistors, it is expected therefor that a significant amount of overlapping would necessarily be effected with regard to a state-of-the-art search between the claims of the different ones of the listed Species. Accordingly, applicants, through their undersigned representative, urge the Examiner to include, also, claims 20-27 and 40-44, 47 and 48 for purposes of examination. According to U. S. practice and as set forth in MPEP §803:

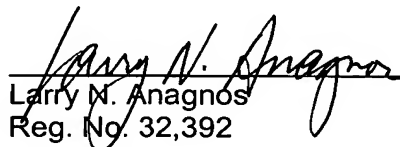
*"[I]f the search and examination of an entire application can be made without serious burden, the Examiner must examine it on the merits, even though it includes claims to distinct or independent invention."*

Therefore, for the reasons noted hereinabove, minimally, examination of claims 1-11, 45 and 46, which are readable on the provisionally elected "first Species", drawn to a non-memory device such as described with regard to Figs. 1, 9 and 10 of the drawings, is respectfully requested. Also, should a genus claim such as claim 11 or other such claim be allowable, in due course, it is respectfully requested, therefor, that examination be made of the claims directed to other ones of the named species. Moreover, even if no genus claim is rendered allowable, due to the closeness of the subject matter involved including a substantial amount of overlapping therebetween, examination therefor of all claims, in addition to that of claims 1-11, 45 and 46, is respectfully requested.

In order to complete the record, the following brief discussion is also being provided as a formal Substance of Telephone Interview Statement, in keeping with USPTO requirements. In supplement to receipt of the Official Action of October 28, 2004, a telephone call was made to the above-named Examiner on November 4, 2004, by the undersigned, for purposes of receiving clarification of the enumeration of the referred-to species, as detailed in the second paragraph on page 2 of the Office Action. The Examiner clarified that the second occurrence of the referred-to second Species should instead have been enumerated as the third Species and, likewise, the enumerated third through sixth species should instead have been enumerated as the fourth through seventh species, respectively. Therefore, for purposes of the response to be filed, the Examiner agreed, at that time, that applicants should assume that seven (7) species were enumerated rather than six (6). No further discussion ensued during that telephone interview.

To the extent necessary, applicants petition for an extension of time under 37 CFR §1.136. Please charge any shortage in the fees due in connection with the filing of this paper, including Extension of Time fees, to the Deposit Account of Antonelli, Terry, Stout & Kraus, LLP, Dep. Acct. No. 01-2135 (500.42877X00), and please credit any excess fees to such deposit account.

Respectfully submitted,  
**ANTONELLI, TERRY, STOUT & KRAUS, LLP**

  
\_\_\_\_\_  
Larry M. Anagnos  
Reg. No. 32,392

LNA/dks  
703-312-6600  
N:\500\42877X00\AMD\B62895.DOC